



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0617; FRL-9731-6]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania;
Adhesives and Sealants Rule**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: EPA is approving a revision to Pennsylvania's State Implementation Plan (SIP).

The SIP revision was submitted by the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP) in order to include in the SIP amendments to relating to control of emissions of volatile organic compounds (VOCs) from the manufacture, sale, use, or application of adhesives, sealants, primers, and solvents. The SIP revision also includes amendments to the definitions in the general provisions in 25 *Pa. Code*. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days from date of publication].

ADDRESSES: EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2011-0617**. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and

will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814-2036, or by e-mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 26, 2011, EPA published a notice of proposed rulemaking (NPR) which proposed approval of Pennsylvania's adhesives and sealants regulations in order to control emissions of VOCs from the manufacture, sale, use, or application of adhesives, sealants, primers, and solvents (76 FR 53369, August 26, 2011). The formal SIP revision was submitted by the Commonwealth of Pennsylvania through PADEP on January 12, 2011.

II. Summary of SIP Revision

Pennsylvania's SIP submission contains amendments to *25 Pa. Code* Chapters 121, 129, and 130 relating to general provisions, standards for sources, and standards for products. The SIP revision includes amendments to the existing regulation in *25 Pa. Code* section 129.51, general provisions for VOC sources, and adds new provisions under *25 Pa. Code* sections 129.77 and

130.701 through 130.708, relating to control of emissions from the use or application of adhesives, sealants, primers and solvents and for the control of emissions of VOCs from the manufacture, sale, use, or application of adhesives, sealants, primers, and solvents. The SIP revision also includes amendments to *25 Pa. Code* section 121.1, which contains definitions applicable to *25 Pa. Code* sections 129.77 and 130.701 through 130.708.

The SIP revision is based on the Ozone Transport Commission (OTC) model rule, “OTC Model Rule For Adhesives and Sealants,” dated 2006, which was based on the 1998 California Air Resources Board (CARB) reasonably available control technology (RACT) determination which applied to both the manufacture and use of adhesives, sealants, adhesive primers, or sealant primers, in both industrial and manufacturing facilities and in the field. California Air Districts used this determination to develop regulations for this category. EPA addressed this source category with a Control Techniques Guideline (CTG) document “Control Techniques Guidelines for Miscellaneous Industrial Adhesives, EPA-453/R-08-005” in September 2008 (Miscellaneous Industrial Adhesive CTG).

EPA has determined that the SIP revision contains the required elements for a federally enforceable rule: Emission limitations, compliance procedures and test methods, compliance dates, and record keeping provisions. In comparison to the CTG, the OTC model rule and *25 Pa. Code* section 129.77 are applicable to all stationary sources including those applications that occur outside of the factory setting in the field. The OTC model rule and *25 Pa. Code* sections 129.77 and 130.701 through 130.708 also regulate the VOC content and vapor pressure of surface-preparation and clean-up solvents for which the CTG did not make recommendations

other than including work practices. The rationale for EPA's proposed action is explained in the NPR and will not be restated here. On September 26, 2011, EPA received one comment letter on the August 26, 2011 NPR. The complete comment letter submitted by the Graphic Arts Coalition (hereafter referred to as the Commenter) may be found in the docket (EPA-R03-OAR-2011-0617) for today's final action. A summary of the comments and EPA's responses are provided in Section III of this document.

III. Summary of Public Comments and EPA Responses

Comment: The Commenter requests that EPA not approve the SIP amendment until PADEP clearly exempts graphic arts operations from the rule. The Commenter believes that adhesives used in printing operations were not considered in PADEP's rulemaking and were not intended to be covered by the revised regulation or by the OTC or EPA. The Commenter believes that all adhesives used in the printing process operation, not only adhesives applied at stations that are physically connected to a printing line, should be excluded from the rule because these adhesives will be captured/controlled under rules applicable to lithographic operations being developed by PADEP.

Response: Pennsylvania's regulation for adhesives and sealants clearly addresses the adhesives and adhesive application activities regulated. In *25 Pa. Code* section 129.77 at Tables V and VI, the Commonwealth clearly specified the adhesives for which a VOC limit is set and *25 Pa. Code* section 129.77(a) clearly states that the limits apply in Tables V and VI unless excluded by *25 Pa. Code* section 129.77(k). Also, the additional terms in *25 Pa. Code* section 121.1 define each of the adhesive categories found in Tables V and VI. Thus, we believe the Pennsylvania

regulations are clear that the adhesives used in printing operations were considered and that the state intended to cover those adhesives.

EPA addressed a portion of the adhesives and adhesive primers category in the Miscellaneous Industrial Adhesive CTG. EPA's Miscellaneous Industrial Adhesive CTG provides state and local air pollution control authorities information that may assist them in determining RACT for VOCs from miscellaneous industrial adhesive application processes. In developing this Miscellaneous Industrial Adhesive CTG, EPA, among other things, evaluated the sources of VOC emissions from miscellaneous industrial adhesives application processes and the available control approaches for addressing these emissions, including the costs of such approaches. Based on available information and data, EPA provided recommendations for RACT for miscellaneous industrial adhesives. States can use the recommendations in the Miscellaneous Industrial Adhesive CTG to inform their own determination as to what constitutes RACT for VOCs for miscellaneous industrial adhesive application processes in their particular nonattainment areas. The Miscellaneous Industrial Adhesive CTG does not impose any legally binding requirements on any entity nor are States required to adopt the approach that EPA sets forth in a CTG. It provides only recommendations for state and local air pollution control agencies to consider in determining RACT. State and local pollution control agencies are free to implement other technically-sound approaches that are consistent with the CAA and EPA's implementing regulations or are more stringent. Thus, whether or not the CTG expressly addressed the adhesives at issue here is not relevant for determining whether Pennsylvania's rule addressing those adhesives could be approved as part of the SIP.

Section 110(k) of the CAA provides that EPA shall approve a SIP revision submittal if it meets all of the applicable requirements of the CAA. The primary CAA requirement for the adhesives and sealants rule is that Pennsylvania set RACT for the Miscellaneous Industrial Adhesive CTG category. For the reasons outlined in the NPR, EPA believes that Pennsylvania has fulfilled this requirement (76 FR 53369). To the extent that Pennsylvania's rule goes beyond the recommendation of the Miscellaneous Industrial Adhesive CTG, it does not prohibit EPA from approving this rulemaking action. The OTC developed a model rule as part of a regional effort to attain and maintain the eight-hour ozone standard and reduce eight-hour ozone levels. States opting to promulgate rules based on this model rule utilize state-specific administrative requirements and procedures. Similar to CTGs, the OTC model rules are merely recommendations and are not required by the Commonwealth for regulation purposes. However, Pennsylvania's adopted *25 Pa. Code* Chapters 121, 129, and 130 are based on the OTC model rule. The Commenter also suggests that these adhesives would be better addressed in a separate rule on which the Commonwealth is currently working. If the Commonwealth determines that the adhesives should be addressed in a different rule, it can request that the SIP be revised. However, the fact that the Commonwealth may choose at some future point to regulate the adhesives under a separate rule is not a basis for disapproving the current rule.

IV. Final Action

EPA is approving the Pennsylvania SIP revision which includes amendments to *25 Pa. Code* section 121.1 "Definitions" and section 129.51(a) "Equivalency." EPA is also approving the Pennsylvania SIP revisions adding *25 Pa. Code* section 129.77 "Control of emissions from the use or application of adhesives, sealants, primers, and solvents" and *25 Pa. Code* sections

130.701 – 130.708 “Adhesives, Sealants, Primers, and Solvents General Provisions.” EPA has determined that 25 *Pa. Code* sections 129.77 and 130.701 through 130.708 meet the requirement for RACT for the Miscellaneous Industrial Adhesive CTG. EPA has determined that the regulations will result in the reduction of VOC emissions from the affected sources and meet the applicable requirements of the CAA and applicable EPA regulations, guidance, and policy and can therefore be approved.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to Pennsylvania’s control of VOCs from adhesives and sealants may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2) of the CAA.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2012

W. C. Early, Acting
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart NN--Pennsylvania

2. Section 52.2020, in paragraph (c)(1), is amended by:

- a. Revising the entries for sections 121.1 and 129.51;
- b. Adding an entry for section 129.77; and
- c. Adding a new table entry under “Chapter 130-Standards for Products” titled “Subchapter D – Adhesives, Sealants, Primers and Solvents”; and under the new table heading, adding entries for 130.701 through 130.708 in numerical order.

The additions and revisions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) ***

(1) ***

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25-- Environmental Protection				
Article III--Air Resources				
Chapter 121— General Provisions				
Section 121.1	Definitions	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	Amends and adds definitions.

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
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Chapter 129—Standards for Sources				
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Sources of VOCs				
Section 129.51	General	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	Amends section 129.51(a)
* * * *	* * *			
Section 129.77	Control of emissions from the use or application of adhesives, sealants, primers and solvents	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	New section is added.
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Chapter 130—Standards for Products				
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Subchapter D – Adhesives, Sealants, Primers and Solvents				
Section 130.701	Applicability	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	New section is added.
Section 130.702	Emission standards	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	New section is added.
Section 130.703	Exemptions and exceptions	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	New section is added.
Section 130.704	Recordkeeping requirements	12/25/10	[Insert Federal Register	New section is added.

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
			<u>publication date</u> [Insert page number where the document begins]	
Section 130.705	Compliance procedures and test methods	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	New section is added.
Section 130.706	Container labeling	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	New section is added.
Section 130.707	Product dating	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	New section is added.
Section 130.708	Sell-through of products	12/25/10	[Insert Federal Register publication date] [Insert page number where the document begins]	New section is added.
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[FR Doc. 2012-23568 Filed 09/25/2012 at 8:45 am; Publication Date: 09/26/2012]